

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
and 777-792 MHz Bands)	
)	
Implementing a Nationwide,)	PS Docket No. 06-229
Broadband, Interoperable)	
Public Safety Network in the)	
700 MHz Band)	

REPLY COMMENTS OF RIVADA NETWORKS

I. INTRODUCTION

Rivada Networks a leading designer, integrator and operator of public safety communications and information technology networks for homeland security forces and first responders hereby submits the following Reply Comments in the above captioned proceeding. In its initial Comments, Rivada urged the Commission to ensure that: 1) public safety agencies are able to make beneficial use of the 700 MHz band pending the resolution of any future re-auction; and 2) both Federal and non-Federal agencies can access this spectrum to train for and coordinate joint responses to major public safety incidents.

The record produced in this proceeding indicates that it is increasingly unlikely that the Commission will be able to quickly resolve all of the outstanding issues surrounding the ultimate resolution of the D-Block and the adjacent public safety 700 MHz spectrum. Accordingly, it is imperative that the Commission take reasonable interim steps to ensure that public safety agencies, both Federal and

non-Federal have access to the 700 MHz public safety spectrum as soon as it becomes available in February 2009.

II. THE BREAKDOWN OF ANY “CONSENSUS” AMONG THE PUBLIC SAFETY COMMUNITY DICTATES THAT THE COMMISSION TAKE REASONABLE STEPS TO ENSURE THAT THE PUBLIC SAFETY 700 MHz NOT LAY FALLOW COME FEBRUARY 2009.

To ensure a broad representation of various public safety interests, the Commission required the PSBL to have a voting board that was “broadly representative of the public safety community.”¹ While the Public Safety Broadband Licensee (“PSBL”) represents a wide cross-section of public safety *associations*, it has no real representation of the State and local governments that have the exclusive authority to make operational, planning, and procurement decisions for public safety *agencies*. In fact, as the record now reveals, significant large cities and their public safety agencies have registered serious reservations about the D-Block public/private partnership.

Indeed, four of the top six of the cities funded by the Department of Homeland Security’s Urban Area Security Initiative (New York, Washington, D.C., Philadelphia and San Francisco) urged the Commission to make significant changes before considering going forward with a revised public/private partnership.

¹ See PS Docket No. 06-229, *Second Report and Order*, 22 FCC Rcd 15289 (2007).

The New York City Police Department concluded “that there is simply no business case for a commercial wireless network operator to build a nationwide network that will meet public safety coverage and survivability standards.”²

The District of Columbia urged “the Commission to provide relief from the regulatory uncertainty that has caused further deployment of the nation’s first and only public safety broadband network in the 700 MHz band to stall and may result in shutting down the network.”³

The City of Philadelphia expressed “serious concerns related to ceding local control over public safety infrastructure to national entities that may be unable to adequately represent the needs of [Philadelphia’s] public safety users.”⁴

The City of San Francisco stated that “a nationwide [public safety broadband] network should not be left in the hands of a centralized D Block licensee and the PSBL . . . [and that] the Commission [should] consider implementing baseline standards to ensure nationwide interoperability, while allowing local or regional public safety agencies to obtain the license for, and to build and operate the public safety broadband network.”⁵

Indeed, even APCO, one of the associations that helped create the Public Safety Spectrum Trust states that “fundamental changes are necessary to ensure

² See Comments of the New York City Police Department at 3.

³ See Comments of the District of Columbia at 1.

⁴ See Comments of the City of Philadelphia at 2.

⁵ See Comments of the City and County of San Francisco at 2, 10.

that the PSBL is a more effective and efficient entity that will promote the interests of the entire public safety community and the nation as a whole.”⁶

Rivada highlights these disparate concerns of significant representatives of the public safety community, not to call into question ongoing efforts to craft creative regulatory solutions to public safety needs, but rather to underscore the fact that resolving these issues is unlikely to be accomplished prior to February 2009. Before the Commission can responsibly move forward with a revised public/private partnership (or any other resolution of the D-Block and adjacent public safety spectrum) the interests of various public safety agencies at the State, local and Federal level will all need to be surveyed and resolved. And, as the comments quoted above make clear, it will be insufficient to rely on a variety of public safety associations as proxies for these government agencies. A full analysis and review of these interests, including but not limited to those already put in the record in this proceeding will require many months of the Commission working in concert with government representatives across the country. In the meantime, these very same State, local and Federal governments and agencies need to be making operational, planning, and procurement decisions on how best to utilize the 700 MHz spectrum that will be made available with the conclusion of the Digital Television transition in February 2009.

Accordingly, the Commission should make clear – as quickly as possible – that the D-Block licensee will have no more than secondary access to the public

⁶ See Comments of the Association of Public-Safety Communications Officials International, Inc. at 20.

safety 700 MHz spectrum. That is, the D-Block licensee may not cause any interference to, and must accept any interference from, public safety deployables operating in the public safety 700 MHz spectrum. This will ensure that jurisdictions around the country can have the confidence to access this spectrum as soon as it is available in February 2009, without waiting for an uncertain D-Block partner and without the fear of future interference.

In addition, the Commission should allow the most efficient and effective access of the public safety 700 MHz spectrum for Federal agencies that may be called upon to respond in the event of an emergency and coordinate with non-Federal state and local agencies.

IV. CONCLUSION

Providing our nation's first responders with advanced wireless capabilities should be a national priority. While the Commission is to be commended for attempting to solve this problem through the mechanisms available to it as a regulatory agency, the record makes clear that the operational, planning, and procurement needs of public safety are unlikely to be resolved quickly through a regulatory proceeding. By adopting the limited proposals offered by Rivada, the Commission can continue its efforts to create regulatory policies that serve the public interest while ensuring that Federal and non-Federal public safety agencies can continue to execute the critical missions that fall within their exclusive responsibility.

Respectfully Submitted,

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